

1 summary judgment or denies summary judgment.

2 **3. PLAINTIFF'S ARGUMENT FOR CLAIM PRECLUSION HAS BEEN DECIDED IN**  
**DEFENDANTS FAVOR**

4 Plaintiff's motion for partial summary judgment on the issues of  
5 collateral estoppel and for issue preclusion in this case based solely  
6 on Defendant's conviction and sentencing. The same issues were  
7 litigated on there merits in the related state case of E.A. v. Boehm,  
8 Superior Court Case 3AN-05-11782 CI. The motion for partial summary  
9 judgment was denied.

10 **4. CONCLUSION**

11 For the foregoing reasons defendant respectfully requests that  
12 this Court set aside its order granting partial summary judgment and  
13 allow the opposition to be re-filed and heard on its own merit.  
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15 September 13, 2006

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